



NRA-ILA

FACT SHEET

Firearm Fact Card 2011

Posted on January 20, 2011

The Right To Keep And Bear Arms

The Second Amendment says, "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."

The right to arms derives from the right of self-defense, and therefore is an individual right. Thomas Jefferson said, "No free man shall be debarred the use of arms." Patrick Henry said, "The great object is that every man be armed." Richard Henry Lee said, "To preserve liberty it is essential that the whole body of people always possess arms." Thomas Paine said, "[A]rms . . . discourage and keep the invader and the plunderer in awe."

James Madison, who introduced the Bill of Rights in the House of Representatives, said its amendments "relate first to private rights." Sen. William Grayson said the amendments "altogether respected personal liberty." Tench Coxe said the Second Amendment protected the people's "right to keep and bear their private arms."

The Supreme Court ruled in *District of Columbia v. Heller* (2008) that "the inherent right of self-defense has been central to the Second Amendment right," and that the Second Amendment protects a pre-existing individual right to keep and bear arms, without regard to a person's relationship to a militia, including "the individual right to possess and carry weapons in case of confrontation." The Court previously recognized that the Second Amendment protects an individual right in *U.S. v. Cruikshank* (1876), *Presser v. Illinois* (1886), *U.S. v. Miller* (1939) and *U.S. v. Verdugo-Urquidez* (1990).

Constitutional scholar Stephen P. Halbrook has found no historical evidence that the amendment was intended to protect a "collective right" of states to arm militias, or a "sophisticated collective right" to use arms only when serving in a militia. Richard Henry Lee said the militia are "the people themselves." George Mason said the "the whole people" are the militia. In *U.S. v. Miller*, the Supreme Court described the militia as "civilians, primarily, soldiers on occasion . . . a body of citizens. . . . bearing arms supplied by themselves."

The National Guard is subject to absolute federal control (*Perpich v. Dept. of Defense* (1990)). When federalized, it is not part of the militia. At other times, it is the "organized militia." "At all times, the "unorganized militia" consists of other able-bodied males of age and certain other citizens.]

Second Amendment Issues

"Assault Weapons" and "Large" Magazines—Congress allowed the federal "assault weapon" and "large" magazine ban of 1994-2004 to expire because a study of the ban concluded that "the banned weapons and magazines were never used in more than a modest fraction of gun murders." Nevertheless, gun control supporters demand that a new ban be imposed, and some want it to include M1 Garands and M1 carbines, all semi-automatic shotguns, and pump-action rifles and shotguns. Other legislation would prohibit the possession of new magazines that hold more than 10 rounds, most of which are used in modern handguns designed for self-defense.

"Gun Show" Legislation—Sales of guns by dealers at shows already go through the national instant check. Gun control supporters used to say that they wanted checks on non-dealer gun show sales. However, their legislation called for registration of people who attend gun shows, and now they want private sales prohibited entirely.

"Ballistic Fingerprinting"—Gun control supporters want markings on bullets and cartridge cases fired from new handguns to be entered into a database. NRA opposes it, because to enforce it would require gun registration. The National Academy of Sciences has concluded that a national database of such markings is unworkable and shouldn't be established.

Castle Doctrine—Thirty-four states have laws protecting the right of self-defense, by removing a person's "duty to retreat" from any place he has a legal right to be.

Right-to-Carry—The federal and 44 state constitutions, and the laws of every state, recognize the right to use guns for defensive purposes. On the whole, RTC permit-holders are more law-abiding than the rest of the population. To protect the privacy of permit holders, 28 states have laws prohibiting the public release of permit holders' names.

Firearm Traces—A trace consists of BATFE using a firearm's make, model and serial number to follow its movement from manufacturer or importer, down the chain of commerce. BATFE and the Congressional Research Service have said traces don't show how often specific types of guns are used in crimes, traced guns aren't representative of guns used in crimes, most guns used in violent crimes aren't traced, and most traced guns haven't been used in violent crimes.

"Microstamping" and "Encoded Ammunition"—NRA opposes requiring that cartridge cases be marked with serial numbers and registered to gun owners. Criminals could simply use stolen guns and ammunition, disfigure or switch barrels or other parts, reload ammunition with fired cartridge cases, or use guns that don't eject cases automatically.

Employees' Right to Transport Guns—Thirteen states prohibit employers from firing workers who leave guns locked in personal vehicles on company property.

Mandatory Storage—NRA opposes requiring gun owners to lock all guns when at home, because locked guns cannot be used for self-defense and such a law would be enforceable only by home inspections by the police.

Protecting FFLs—NRA supports a law to prevent BATFE from revoking firearms dealers' licenses for insignificant technical violations.

Registration and Licensing—These laws serve no crime-fighting purpose, because criminals don't register themselves or their guns, and most get guns from theft or the black market. Registration has led to gun confiscation in some foreign countries and some U.S. states. The Supreme Court has ruled that requiring felons to register guns would violate their Fifth Amendment right against self-incrimination.

Terrorist Watchlist—NRA opposes legislation to prohibit the possession of firearms by people on the watchlist, because the FBI will not say who is on the list or why, and the legislation would violate the 5th Amendment by preventing a watchlisted person from challenging the FBI in a fair and open hearing in court.

"Smart" Guns—NRA opposes requiring that guns have expensive, unreliable features, such as grips that would read your fingerprints before the gun will fire.

D.C. Gun Laws—NRA supports federal legislation to conform D.C.'s gun laws to federal law and the Supreme Court's decision in *District of Columbia v. Heller* (2008).

Tiahrt Amendment on Release of Firearm Trace Data—This allows BATFE to provide tracing information on firearms to law enforcement agencies, for law enforcement purposes, but prohibits other disclosure. Gun control supporters want the information to be public, so it can be used in the media and in lawsuits against the firearms industry.

"Gun Control" Doesn't Work

Studies by or for Congress, the Department of Justice, the Congressional Research Service, the Library of Congress, the National Academy of Sciences, and the Centers for Disease Control and Prevention have found no evidence that "gun control" reduces crime, suicides or accidents in the U.S. or abroad.

More Guns, Less "Gun Control," and Less Crime

There are more guns and gun owners in the U.S. than ever. During the last decade, "gun control" has been significantly reduced. The federal waiting period on handguns ended in 1998, in favor of the NRA-supported national instant check. Congress refused to renew the federal "assault weapon" and "large" magazine ban, allowing it to expire in 2004. Congress and 33 states have prohibited frivolous lawsuits against the firearms industry. Forty states have Right-to-Carry, and 48 states prohibit cities from imposing gun laws more restrictive than state law. From 1991 to 2009, the total violent crime rate declined more than 40% to a 35-year low, and the murder rate declined by half to a 45-year low. Both declined more than six percent more in the first half of 2010.

Firearm Safety

NRA's 73,000 Certified Instructors and 12,000 Law Enforcement Instructors reach over 800,000 people annually. NRA's Eddie Eagle GunSafe® Program has been used by more than 26,000 schools, law enforcement agencies, and civic groups to reach more than 24 million children since 1988. The accidental gun death rate has declined 94% since 1904.

General Information

Privately owned firearms in the U.S.: Approaching 300 million, including nearly 100 million handguns. The number of firearms rises over 4 million annually.

Gun owners in the U.S.: 70-80 million; 40-45 million own handguns

American households that have firearms: 40-45%

Hunting licenses sold annually: 14.5 million

NRA State Associations and Local Clubs: 12,000

NRA Target Shooting Tournaments annually: 11,000

NRA Certified Instructors: 73,000
Number of Individuals Attending an NRA Firearm Course Annually: Over 800,000
NRA Law Enforcement Firearm Instructors: 12,000

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